

Revisions suggested by JONWRM to language proposed by SCWA's Attorney (SSS Draft of 6-5-03) re:

UWMP and Watershed Planning Provisions

(Based on comments received from WAC at June 23, 2003 Negotiation Session and compatible edits suggested by SCWA Counsel at meeting of July 22.)

4.1 Separate Charges and Funds

(a) On or before April 30 preceding each fiscal year during which any of the following charges are payable, the Agency will establish the amount of the following charges for the ensuing fiscal year:

- (1) the Operation and Maintenance Charge,
- (2) the ~~Santa Rosa~~ Aqueduct ~~Facilities~~ Capital Charge~~s~~,
- (3) the ~~Forestville Aqueduct Storage Facilities~~ Capital Charge,
- (4) the ~~Sonoma Aqueduct Common Facilities~~ Capital Charge,
- (5) the ~~Petaluma Aqueduct North Marin~~ Capital Charge,
- (6) the ~~Aqueduct Facilities Revenue Bonds~~  
~~Marin Municipal Capital~~ Charge,
- (7) the ~~Storage Facilities Revenue Bonds~~ Environmental Compliance Charge,
- (8) the Recycled Water/~~Local Supply~~ Charge.
- ~~(9) the North Marin Revenue Bonds Charge.~~
- (9) the Water Conservation Charge.
- (10) the Watershed Planning and Restoration Charge.

In determining the amount of these charges, the Agency shall include a reasonable allowance for usual contingencies and errors in estimation, and to maintain a prudent reserve in an amount determined from time to time by the Water Advisory Committee.

*<Note: Changes proposed by SCWA to "Charges" shown above have not yet been debated or agreed to by WAC. The WAC and SCWA have agreed, however, that should MMWD not be a signer of the proposed new agreement that the proposed new Recycled Water/Local Supply Charge, Water Conservation Charge, and any other charges agreed to by the WAC will not be instituted as separate charges but will be (remain) components of the Operation and Maintenance Charge. >*

4.12 Watershed Planning and Restoration Charge

(a) The Watershed Planning and Restoration Charge shall be a uniform charge per acre-foot and shall be paid by all regular customers for all water delivered from the Transmission System.

(b) The aggregate amount of money to be received by the Agency from the Watershed Planning and Restoration Charge in each fiscal year shall be sufficient to produce water sale revenues to cover the Agency's estimate of costs for such fiscal year of carrying out activities of the Agency required or authorized under Section 2.7(a) and (b) that are not covered by other funding sources and contributions, ~~including a reasonable allowance for usual contingencies and errors in estimation, and to accumulate and maintain a prudent reserve in an amount determined from time to time by the Water Advisory Committee.~~

(c) In addition to the Watershed Planning and Restoration Charge, the Agency may assess against the water contractors such supplemental charges as are authorized and agreed to under Section 2.7(c). Supplemental charges under this subsection shall not be included in determining the minimum payments by other Agency customers pursuant to Section 4.16.

(d) All money received by the Agency in payment of the Watershed Planning and Restoration Charge shall be deposited by the Agency into a Watershed Planning and Restoration Fund and used solely to pay or partially pay for the Agency's costs of carrying out the activities required or authorized under Section 2.7.

## **Section 2.7 Watershed Planning and Restoration**

(a) The Agency shall periodically prepare a draft regional Urban Water Management Plan pursuant to the Water Code for consideration by the water contractors. Each water contractor shall provide the Agency with all information and data the Agency reasonably determines to be necessary to allow the Agency to prepare the draft regional Urban Water Management Plan. Each water contractor shall either approve and adopt the draft regional Urban Water Management Plan prepared by the Agency as its Urban Water Management Plan, or prepare and adopt its own Urban Water Management Plan. The Agency shall use its best efforts to prepare a draft regional Urban Water Management Plan that meets the requirements of the Water Code, but shall not be liable to any water contractor for any claims, actions, or liabilities arising out of or related to the approval by any water contractor of a draft regional Urban Water Management Plan prepared by the Agency.

(b) The Agency may undertake any ~~particular~~ action, study, or project approved by the Water Advisory Committee related to (1) the development or implementation of watershed restoration and maintenance plans and projects (including, but not limited to, stream restoration projects, ~~TMDL and~~ water quality monitoring ~~and~~ studies and projects, public education and outreach activities, and funding of third-party studies and projects) or (2) groundwater studies and investigations. ~~Before undertaking any such action, study or project:~~ (1) the Agency shall consider suggestions received from the public, water contractors, and interested parties and organizations such as the Russian River Watershed Association as to the actions, studies, and projects to be undertaken by the Agency hereunder; and (2) the Agency and the water contractors shall use their best efforts to obtain funding contributions from other parties that would benefit from actions, studies, or projects authorized hereunder, including but not limited to federal and state loans and grants, municipalities (including county

and special district governments), and urban and industrial development, gravel mining, agriculture, forest harvesting, recreation, and sport and commercial fishing interests.

(c) The parties understand and agree that the authority granted to the Agency under this Section 2.7 is permissive and not mandatory, and that nothing in this Section 2.7 shall (1) require the Agency to undertake any ~~particular~~ action or project unless such action or project is approved by the Agency, (2) impair or affect the Agency's right to undertake any action or project not funded under this Agreement, or (3) require the Agency to engage in any regulatory activity.

~~(c)~~ (d) The Agency may carry out projects and activities within the scope of subsection (b) above that primarily or exclusively benefit one or more water contractors, provided (1) such projects and activities are approved by the Water Advisory Committee and (2) the water contractors ~~or other parties~~ primarily or exclusively benefiting from the projects or activities agree to pay supplemental charges as approved by the Agency and the Water Advisory Committee to defray all or a portion of the cost of the projects or activities.